

CITY COUNCIL AGENDA

FEBRUARY 24, 2015

CHAPPIE JONES
ASH KALRA
RAUL PERALEZ
MARJORIE MATTHEWS
MAGDALENA CARRASCO

DISTRICT 1
DISTRICT 2
DISTRICT 3
DISTRICT 4
DISTRICT 5

SAM LICCARDO MAYOR

PIERLUIGI OLIVERIO
TAM NGUYEN
ROSE HERRERA VICE MAYOR
DONALD ROCHA
JOHNNY KHAMIS

DISTRICT 6
DISTRICT 7
DISTRICT 8
DISTRICT 9
DISTRICT 10

The City of San José is committed to open and honest government and strives to consistently meet the community's expectations by providing excellent service, in a positive and timely manner, and in the full view of the public.

Welcome to the San José City Council meeting!

This Agenda contains both a Consent Calendar section for routine business items that require Council approval, and general business items arranged to correspond with San José's City Service Areas (CSAs). City Service Areas represent the policy-making level for strategic planning, policy setting, and investment decisions in the critical functions the City provides to the community. They are:

- ***Strategic Support Services*** — The internal functions that enable the CSAs to provide direct services to the community in an effective and efficient manner.
- ***Community & Economic Development*** — Manage the growth and change of the community in order to create and preserve healthy neighborhoods and ensure a diverse range of employment and housing opportunities.
- ***Neighborhood Services*** — Serve, foster, and strengthen community by providing access to lifelong learning and opportunities to enjoy life.
- ***Transportation & Aviation Services*** — A safe and efficient transportation system that contributes to the livability and economic health of the City; and provide for the air transportation needs of the community and the region at levels that is acceptable to the community.
- ***Environment and Utility Services*** — Manage environmental services and utility systems to ensure a sustainable environment for the community.
- ***Public Safety Services*** — Commitment to excellence in public safety by investing in neighborhood partnerships as well as prevention, enforcement, and emergency preparedness services.

You may speak to the City Council about any discussion item that is on the agenda, and you may also speak during Open Forum on items that are not on the agenda and are within the subject matter jurisdiction of the City Council or Successor Agency to the Redevelopment Agency Board. If you wish to speak to the City Council, please refer to the following guidelines:

- **Fill out a Yellow Speaker's Card and submit it to the City Clerk seated at the front table. Do this before the meeting or before the item is heard.** This will ensure that your name is called for the item(s) that you wish to address, and it will help ensure the meeting runs smoothly for all participants.
- When the Council reaches your item on the agenda, the Mayor will open the public hearing and call your name. Please address the Council from the podium, which is located to the left of the City Clerk's table.
- Each speaker generally has two minutes to speak per item. The amount of time allotted to speakers may vary at the Mayor's discretion, depending on the number of speakers or the length of the agenda.
- To assist you in tracking your speaking time, there is a display on the podium. The green light turns on when you begin speaking; the yellow light turns on when you have 30 seconds left; and the red light turns on when your speaking time is up.

Please be advised that, by law, the City Council is unable to discuss or take action on issues presented during Open Forum. According to State Law (the Brown Act) items must first be noticed on the agenda before any discussion or action.

The San José City Council meets every Tuesday at 1:30 p.m. and Tuesday at 7 p.m. as needed, unless otherwise noted. If you have any questions, please direct them to the City Clerk's staff seated at the tables just below the dais. Thank you for taking the time to attend today's meeting. We look forward to seeing you at future meetings.

Agendas, Staff Reports and some associated documents for City Council items may be viewed on the Internet at <http://www.sanjoseca.gov/index.aspx?NID=3549>. Council Meetings are televised live and rebroadcast on Channel 26.

All public records relating to an open session item on this agenda, which are not exempt from disclosure pursuant to the California Public Records Act, that are distributed to a majority of the legislative body will be available for public inspection at the Office of the City Clerk at San José City Hall, 200 E. Santa Clara Street, Council Wing, 2nd Floor, San José, CA 95113 at the same time that the public records are distributed or made available to the legislative body. Any draft contracts, ordinances and resolutions posted on the Internet site or distributed in advance of the Council meeting may not be the final documents approved by the City Council. Contact the Office of the City Clerk at (408) 535-1260 or CityClerk@sanjoseca.gov for the final document.

To request an accommodation or alternative format under the Americans with Disabilities Act for City-sponsored meetings, events or printed materials, please call (408) 535-1260 or (408) 294-9337 as soon as possible, but at least three business days before the meeting.

On occasion the City Council may consider agenda items out of order.

- **Call to Order and Roll Call**

- 9:00 a.m. - Closed Session, Call to Order in Council Chambers
 - Open Session, Labor Negotiations Update (See Item 3.2)
 - Adjourn to Closed Session in Council Chambers Conference Room, W133
 - See Separate Agenda
 - 1:30 p.m. - Regular Session, Council Chambers, City Hall
 - 7:00 p.m. - Public Hearings, Council Chambers, City Hall

- **Invocation (District 2)**

- Shamako Noble - Hip Hop Artist, organizer, author

- **Pledge of Allegiance**

- **Orders of the Day**

- Items recommended to be added, dropped, or deferred are usually approved under Orders of the Day unless the Council directs otherwise.

- **Closed Session Report**

1. CEREMONIAL ITEMS

- 1.1 Presentation of a commendation to Kathleen Flynn for lifelong commitment to social justice and outstanding leadership in coordinating the Freedom Train as President of the Dr. Martin Luther King, Jr. Association of Santa Clara Valley. (Rocha)
TO BE HEARD IN THE EVENING

2. CONSENT CALENDAR

Notice to the public: There will be no separate discussion of Consent Calendar items as they are considered to be routine by the City Council and will be adopted by one motion. If a member of the City Council, staff, or public requests discussion on a particular item, that item may be removed from the Consent Calendar and considered separately.

2.1 Approval of Minutes.

2.2 Final Adoption of Ordinances.

Recommendation: Final adoption of ordinances.

- (a) ORD. NO. 29531 – Rezoning certain real property of approximately 2.37 acres situated on the North Side of Thornwood Drive, east of Winfield Boulevard at 5340 and 5406 Thornwood Drive from the A(PD) Planned Development Zoning District to the CIC Combined Industrial/Commercial Zoning District. C14-066
- (b) ORD. NO. 29532 – Amending Section 10.32.010 of Chapter 10.32 Of Title 10 of the San José Municipal Code, to allow persons with a duly issued and approved wild pig depredation permits from the California Department Of Fish And Wildlife to discharge a firearm within the limits of the city under specified circumstances.

2.3 Approval of Council Committee Reports.

Recommendation: Approval of Council Committee Reports.

- (a) [Community and Economic Development Committee Report of January 26, 2015.](#) (Khamis)
[Deferred from 2/10/15 – Item 2.3(b)]
- (b) [Rules and Open Government Committee Report of January 28, 2015.](#) (Mayor)
- (c) [Transportation and Environment Committee Report of February 2, 2015.](#) (Kalra)
- (d) [Rules and Open Government Committee Report of February 4, 2015.](#) (Mayor)

2. CONSENT CALENDAR

2.4 Mayor and Council Excused Absence Requests.

Recommendation:

- (a) Request for an excused absence for Councilmember Rocha from the Regular Meeting of the City Council on February 10, 2015 due to a family emergency. (Rocha)
- (b) Request for an excused absence for Councilmember Carrasco from the Regular Meeting of the City Council on February 10, 2015 due to illness. (Carrasco)
- (c) Request for an excused absence for Councilmember Carrasco from the Regular Meeting of the Rules and Open Government Committee and Committee as a Whole on February 11, 2015. (Carrasco)
- (d) Request for an excused absence for Councilmember Carrasco from the Regular Meeting of Neighborhood Services and Education Committee on February 12, 2015. (Carrasco)

2.5 City Council Travel Reports.

2.6 Report from the Council Liaison to the Retirement Boards.

2.7 Board and Commission Appointments.

Recommendation: Approve the following Board and Commission appointments:

- (a) Housing and Community Development Commission:
 - (1) District 4: Appoint Victoria Johnson to a term expiring 6/30/15;
 - (2) Mobilehome Resident Representative: Appoint Davlyn Jones to a term expiring 12/31/18;
 - (b) Council Appointment Advisory Commission:
 - (1) Citywide: Appoint Omar Teutle to a term expiring 12/31/18;
 - (2) District 8: Appoint Denise Belisle to a term expiring 12/31/18;
 - (c) Human Services Commission:
 - (1) District 4: Appoint Shailesh Dubale to a term expiring 6/30/16;
 - (d) Youth Commission
 - (1) District 6: Appoint Spencer Day to a term expiring 5/31/16.
- (City Clerk)

2.8 Naming of the Tennis Courts Located at Backesto Park.

Recommendation: As recommended by the Parks, Recreation and Neighborhood Services and Parks and Recreation Commission, name the tennis courts located at Backesto Park as the Don Johnson Tennis Courts. Council District 3. CEQA: Not a Project, File No. PP10-068(c), Code or policy change that involves no changes in the physical environment. (City Clerk)

2. CONSENT CALENDAR

2.9 [Naming of the City Park Located at 80 Montecito Vista Drive.](#)

Recommendation: As recommended by Parks, Recreation and Neighborhood Services and the Parks and Recreation Commission, name the future park located at 80 Montecito Vista Drive Elaine Richardson Park. Council District 7. CEQA: Not a Project, File No. PP10-068(c), Code or policy change that involves no changes in the physical environment. (City Clerk)

2.10 [Naming of the City Park Located at the Southeasterly Corner of River Oaks Parkway and Seely Avenue.](#)

Recommendation: As recommended by Parks, Recreation and Neighborhood Services and the Parks and Recreation Commission, name the future park located at the Southeasterly Corner of River Oaks Parkway and Seely Avenue Iris Chang Park. Council District 4. CEQA: Not a Project, File No. PP10-068(c), Code or policy change that involves no changes in the physical environment. (City Clerk)

2.11 [Naming of the City Park Located at 1633 Old Oakland Road.](#)

Recommendation: As recommended by Parks, Recreation and Neighborhood Services and the Parks and Recreation Commission, name the new park located at 1633 Old Oakland Road Orchard Park. Council District 3. CEQA: Not a Project, File No. PP10-068(c), Code or policy change that involves no changes in the physical environment. (City Clerk)

2.12 [Amendment to the Agreement with Kubra America West, Inc., for Document Printing, Mailing, E-Presentment, E-Payment and Remittance Services.](#) [Supplemental](#)

Recommendation: Adopt a resolution authorizing the City Manager to:

- (a) Execute the [Fourth Amendment](#) to the Agreement for Document Printing, Mailing, E-Presentment, E-Payment and Remittance Services with Kubra America West, Inc., a wholly owned subsidiary of Kubra Data Transfer Ltd, “Kubra” (Ontario, Canada), to extend services for one additional twelve month period for the term July 1, 2015 through June 30, 2016 for a not to exceed amount of \$359,000.
- (b) Execute one additional one-year option to extend the Agreement through June 30, 2017, subject to the appropriation of funds.

CEQA: Not a Project, File No. PP10-066(e), Services that involve no physical changes to the environment. (Finance)

2. CONSENT CALENDAR

2.13 District 7's Balermينو Park Grand Opening Ceremony.

Recommendation: As recommended by the Rules and Open Government Committee on February 11, 2015:

- (a) Approve the Balermينو Park Grand Opening Ceremony scheduled on March 7, 2015 as a City Council sponsored Special event and approve the expenditure of funds; and
- (b) Approve and accept donations from various individuals, businesses or community groups to support the event.

CEQA: Not a Project. (Nguyen)

[Rules Committee referral 2/11/15 – Item G(1)(a)]

2.14 Actions Related to the Coyote Creek Trail Story Road to Phelan Avenue Project.

Recommendation:

- (a) Adopt a [resolution](#) adopting the Mitigated Negative Declaration for the Coyote Creek Trail (Story Road to Phelan Avenue) Project as complete and prepared in compliance with the California Environmental Quality Act (CEQA) and reflecting the City's independent judgment and analysis, and adopting the related Mitigation Monitoring and Reporting Program for the Project; and
 - (b) Approve the Coyote Creek Trail Story Road to Phelan Avenue Project plans.
- CEQA: Mitigated Negative Declaration. Council District 7. (Parks, Recreation and Neighborhood Services)

2.15 Actions Related to the Agreement with City and County of San Francisco for the 2014 Bay Area Urban Areas Security Initiative Grant Funds.

Recommendation:

- (a) Adopt a resolution authorizing the City Manager to execute an [Agreement](#) between the City of San José and the City and County of San Francisco, acting as fiscal agent for the Bay Area Urban Areas Security Initiative (UASI), to accept the 2014 UASI grant allocation in the amount of \$1,000,000, and to negotiate and execute additional amendments and related documents without further Council action.
- (b) Adopt the following 2014 -2015 Appropriation Ordinance and Funding Sources Resolution Amendments in the General Fund:
 - (1) Establish a City-Wide Expenses appropriation to the Police Department for the Urban Areas Security Initiative Grant - Police 2014 in the amount of \$575,000;
 - (2) Establish a City-Wide Expenses appropriation to the Fire Department for the Urban Areas Security Initiative Grant - Fire 2014 in the amount of \$365,000; and
 - (3) Increase the estimate for Revenue from the Federal Government by \$940,000.

CEQA: Not a Project, File No. PP10-066(g), Memorandum of Understanding.
(Police/Fire/City Manager)

3. STRATEGIC SUPPORT SERVICES

3.1 Report of the Interim City Manager, Norberto Dueñas (Verbal Report).

3.2 Labor Negotiations Update.

Recommendation: Accept Labor Negotiations Update.

TO BE HEARD AT 9:00 A.M.

3.3 Ethics Commission Appointments.

Recommendation:

- (a) Interview five (5) applicants for appointment to the Ethics Commission;
- (b) Appoint three (3) members to the Ethics Commission to terms expiring March 1, 2019; and
- (c) If any vacancy remains, direct the City Clerk to continue recruitment efforts and bring forward additional applicants for consideration within 90 days.

CEQA: Not a Project. (City Clerk)

TO BE HEARD IN THE EVENING

3.4 Planning Commission Appointments.

Recommendation:

- (a) Interview applicants for appointment to the Planning Commission; and
- (b) Appoint one (1) member to the Planning Commission to term expiring June 30, 2016.

CEQA: Not a Project. (City Clerk)

TO BE HEARD IN THE EVENING

3.5 Prohibition on Credits to Annual Required Retirement Contributions.

Recommendation: As recommended by the Rules and Open Government Committee on February 4, 2015, direct the City Attorney to draft an ordinance to bring forward to the Retirement Boards that will:

- (a) Require that the retirement boards, when setting their annual contributions rates, ensure that the Annual Required Contribution Rates do not apply credits for negative unfunded liabilities which occur when the plans exceed 100% funded status; and
- (b) Require that the City fully pay the Annual Required Contribution Rates without accepting credits applied for negative unfunded liabilities when the plan exceed 100% funded status.

(Mayor)

[Rules Committee referral 2/4/15 – Item G(2)]

4. COMMUNITY & ECONOMIC DEVELOPMENT

5. NEIGHBORHOOD SERVICES

5.1 [Actions Related to Property Acquisition of Swenson Warehouses at Del Monte Park for Park Purposes.](#)

Recommendation:

- (a) Adopt a resolution authorizing the City Manager or his designee to:
 - (1) Negotiate and execute a Purchase and Sale Agreement with Barry Swenson Builder/Green Valley Corporation with assumption of lease agreement, which includes demolition of structures and environmental remediation on 3.99 acres of real property approximately located at 830 Auzerais Street, Assessor Parcel Numbers: 264-11-107 and 264-11-108, in the amount of \$9,000,000, as part of the future expansion of Del Monte Park; and
 - (2) Negotiate and execute all other documents and take such further actions as are necessary to complete the transaction.
- (b) Adopt the following 2014-2015 Appropriation Ordinance amendments in the Subdivision Park Trust Fund:
 - (1) Increase the appropriation to the Parks, Recreation and Neighborhood Services Department for Del Monte Land Acquisition in the amount of \$6,380,000; and
 - (2) Decrease the Future PDO/PIO Projects Reserve appropriation by \$6,380,000.

CEQA: Ohlone Mixed-Use Final Program EIR, File No. PP14-091. Council District 6. (Parks, Recreation and Neighborhood Services/Economic Development/City Manager)

6. TRANSPORTATION & AVIATION SERVICES

6.1 [Airport Ground Transportation Program.](#) [Conflict of Interest](#)

Recommendation: As recommended by the Rules and Open Government Committee on December 10, 2014, modify RFP SJC131415 On-Demand Ground Transportation Management for the Norman Y. Mineta San José International Airport in order to comply with Council direction from March 4, 2014 to ensure the ability to work at the airport will be distributed equally among the companies as follow s:

- (a) Delete the following language from the RFP: “It is not expected, nor would an option be reviewed and approved by the Airport that calls for an equal/identical number of drivers to be assigned to the Airport per company despite the size of the company.”

(Item continued on the next page)

6. TRANSPORTATION & AVIATION SERVICES

6.1 Airport Ground Transportation Program. (Cont'd.)

Recommendation:

- (b) Add the following language to the RFP: “Qualified cab companies will be required to provide an equal number of taxi cabs at the Airport to meet the demand from first to last flight, or from 5:00 a.m. to 12:00 midnight. The cab companies can schedule their drivers by 8 hours or more per day shift to give all of their drivers a chance to work at the Airport.”

(Herrera/Khamis)

[Rules and Open Government Committee 12/10/14 – Item G(5)]

(Deferred from 1/27/15 – Item 6.1 and 2/10/15 – Item 6.1)

TO BE HEARD LAST IN THE AFTERNOON

6.2 [Agreement with Philips for Installation of Smartpoles.](#)

Recommendation:

- (a) Adopt a resolution authorizing the City Manager or his designee to negotiate and execute an agreement with Philips for the installation of up to 50 SmartPoles for a term of up to ten years consistent with the direction provided by the City Council on the agreement’s terms.
- (b) Provide direction regarding the parameters of a competitive process soliciting proposals for replacement of the remaining non-LED lights citywide.

CEQA: Exempt, File No. PP14-046. (Transportation/Economic Development/City Manager)

7. ENVIRONMENTAL & UTILITY SERVICES

7.1 [Amendment to the Agreement with Brown and Caldwell for the Digester and Thickener Facilities Upgrade Project.](#)

[Supplemental](#)

Recommendation:

- (a) Approve the First Amendment to the [Consultant Agreement](#) with Brown and Caldwell for engineering services for the Digester and Thickener Facilities Upgrade project at the San José-Santa Clara Regional Wastewater Facility, modifying the scope of services and increasing the amount of compensation by \$1,999,884, for a total agreement amount not to exceed \$14,017,410; and extending the term of agreement from December 31, 2019 to June 30, 2020.
- (b) Adopt the following 2014-2015 Appropriation Ordinance Amendments in the San José-Santa Clara Treatment Plant Capital Fund:
 - (1) Decrease the Energy Generation Improvements appropriation to the Environmental Services Department in the amount of \$955,000;

(Item continued on the next page)

7. ENVIRONMENTAL & UTILITY SERVICES

7.1 Amendment to the Agreement with Brown and Caldwell for the Digester and Thickener Facilities Upgrade Project. (Cont'd.)

Recommendation:

- (b) (2) Decrease the Digested Sludge Dewatering Facility appropriation to the Environmental Services Department in the amount of \$545,000; and
- (3) Increase the Digester and Thickener Facilities Upgrade appropriation to the Environmental Services Department in the amount of \$1,500,000.

CEQA: Exempt, File No. PP10-066(d), Feasibility and Planning Studies.
(Environmental Services/City Manager)

8. PUBLIC SAFETY SERVICES

9. REDEVELOPMENT – SUCCESSOR AGENCY

- **Open Forum**
Members of the Public are invited to speak on any item that does not appear on today's Agenda and that is within the subject matter jurisdiction of the City Council.
- Council will recess until 7:00 p.m.

10. GENERAL PLAN PUBLIC HEARINGS

No General Plan Public Hearing at this time.

11. PUBLIC HEARINGS ON CONSENT CALENDAR

(To be heard by the City Council at 7:00 p.m.)

Notice to the public: There will be no separate discussion of Public Hearings Consent Calendar (Item 11.1) as they are considered to be routine by the City Council and will be adopted by one motion. If a member of the City Council, staff, or public requests discussion on a particular item, that item will be removed from the Public Hearings Consent Calendar (Item 11.1) and considered separately.

11.1 Public Hearings on Consent Calendar.

Recommendation:

- (a) [Rezoning the Real Property Located on the Southerly Side of East San Salvador Street, Approximately 175 Feet Easterly of South Fourth Street.](#)

Recommendation: Consideration of an [ordinance](#) rezoning the real property located on the southerly side of East San Salvador Street, approximately 175 feet easterly of South Fourth Street (168 East San Salvador Street) from the CG-Commercial General Zoning District and R-M-Multiple Residence Zoning District to the R-M(PD) Planned Development Zoning District, to allow an approximately 9,818 square foot sorority house on a 0.11 gross acre site (Gamma Iota Chapter Kappa Delta House Corp, Owner). CEQA: Exempt. Planning Commission recommends approval (5-0-1). (Planning, Building and Code Enforcement)
PDC14-050 – District 3

11.2 [Rezoning the Real Property Located on the West Side of East Hill Drive, Approximately 250 Feet Southerly of Dale Drive.](#)

Recommendation: Consideration of an [ordinance](#) rezoning the unincorporated Santa Clara County territory totaling 0.52 gross acres located on the west side of East Hills Drive, approximately 250 feet southerly of Dale Drive (3405 East Hills Drive), to the City of San José's R-1-8 Single-Family Residence Zoning District (Gonsalez Olga and Guillermo & Sanchez José Life Estate & ET AL, Owners). CEQA: Exempt. (Planning, Building and Code Enforcement)
C14-028 – District 5

11. PUBLIC HEARINGS

11.3 [Actions Related to the Real Property Located on the West Side of Hamilton Avenue, Approximately 100 Feet South of Hamilton Way.](#) [Supplemental](#)

Recommendation:

- (a) Consideration of an [ordinance](#) rezoning the real property located on the west side of Hamilton Avenue, approximately 100 feet south of Hamilton Way (0 Hamilton Avenue) from R-1-8 Residential Zoning District to CN Commercial Neighborhood Zoning District; and
- (b) Consideration of a Conditional Use Permit to allow the operation of a two story, 13,545 square foot day care for up to 196 children. [Resolution](#)

CEQA: [Mitigated Negative Declaration](#). (Planning, Building and Code Enforcement)
C14-036/CP14-039 – District 6

11.4 **Rezoning the Real Property Located at the Southwesterly Corner of Saint John Street and North Almaden Boulevard. - *DROP***

Recommendation: Consideration of an ordinance rezoning the real property located at the southwesterly corner of Saint John Street and North Almaden Boulevard (APNs 259-36-036, -037, -038, -039, and -067) from the Commercial General (CG) and Light Industrial (LI) Zoning Districts to the Downtown Primary Commercial (DC) Zoning District of five Little Italy properties (Green Valley Corp, Ray Shir, Owners). CEQA: Re-Use of Envision San José 2040 General Plan FEIR (Reso. No. 76041). (Planning, Building and Code Enforcement)

C14-071 – District 3

DROP – TO BE RENOTICED

11.5 **Rezoning the Real Property Located at the Southwest Corner of West San Carlos Street and Sunol Street. - *DEFERRED***

Recommendation: Consideration of an ordinance rezoning the real property located at the southwest corner of West San Carlos Street and Sunol Street (860 West San Carlos Street) from the A(PD) Planned Development Zoning District to the A(PD) Planned Development Zoning District to allow for specific changes to previously approved Development Standards, most notably: eliminating the minimum building height, lowering the minimum amount of commercial square footage from 24,000 to 14,000, and requiring standard conformance with the City's parkland dedication requirements, for the subject 8.0 gross acre site (Santa Clara County Transit District, Owner). CEQA: Ohlone Mixed Use EIR Resolution No. 09064, File No. PDC08-061. Planning Commission recommends approval (5-0-1). (Planning, Building and Code Enforcement)

PDC13-004 – District 6

DEFERRED TO 3/10/15 PER ADMINISTRATION

- **Open Forum**

Members of the Public are invited to speak on any item that does not appear on today's Agenda and that is within the subject matter jurisdiction of the City Council.

- **Adjournment**